



## Ontario: Revised Statutes

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1980

# c 262 Mental Health Act

Ontario

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## CHAPTER 262

## Mental Health Act

## 1. In this Act,

Interpre-  
tation

- (a) "attending physician" means the physician to whom responsibility for the observation, care and treatment of a patient has been assigned;
- (b) "Deputy Minister" means the Deputy Minister of Health;
- (c) "involuntary patient" means a person who is detained in a psychiatric facility under a certificate of involuntary admission or a certificate of renewal;
- (d) "local board of health" has the same meaning as local board in the *Public Health Act*;
- (e) "medical officer of health" has the same meaning as in the *Public Health Act*;
- (f) "mental disorder" means any disease or disability of the mind;
- (g) "mentally competent" means having the ability to understand the subject-matter in respect of which consent is requested and able to appreciate the consequences of giving or withholding consent;
- (h) "Minister" means the Minister of Health;
- (i) "Ministry" means the Ministry of Health;
- (j) "nearest relative" means,
  - (i) the spouse who is of any age and mentally competent, or
  - (ii) if none or if the spouse is not available, any one of the children who has attained the age of majority and is mentally competent, or
  - (iii) if none or if none is available, either of the parents who is mentally competent or the guardian, or

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- (iv) if none or if neither is available, any one of the brothers or sisters who has attained the age of majority and is mentally competent, or
- (v) if none or if none is available, any other of the next of kin who has attained the age of majority and is mentally competent;
- (k) "officer in charge" means the officer who is responsible for the administration and management of a psychiatric facility;
- (l) "out-patient" means a person who is registered in a psychiatric facility for observation or treatment or both, but who is not admitted as a patient and is not the subject of an application for assessment;
- (m) "patient" means a person who is under observation, care and treatment in a psychiatric facility;
- (n) "physician" means a legally qualified medical practitioner;
- (o) "prescribed" means prescribed by the regulations;
- (p) "psychiatric facility" means a facility for the observation, care and treatment of persons suffering from mental disorder, and designated as such by the regulations;
- (q) "psychiatrist" means a physician who holds a specialist's certificate in psychiatry issued by The Royal College of Physicians and Surgeons of Canada or equivalent qualification acceptable to the Minister;
- (r) "regional review board" means the review board appointed under section 30 having jurisdiction in respect of the psychiatric facility in which the person in respect of whom a hearing is required is a patient;
- (s) "regulations" means the regulations made under this Act;
- (t) "restrain" means keep under control by the minimal use of such force, mechanical means or chemicals as is reasonable having regard to the physical and mental condition of the patient;

- (u) "senior physician" means the physician responsible for the clinical services in a psychiatric facility. R.S.O. 1970, c. 269, s. 1; 1972, c. 1, s. 1; 1978, c. 50, s. 1.

2. Nothing in this Act shall be deemed to affect the rights or privileges of any person except as specifically set out in this Act. 1978, c. 50, s. 2. Effect of Act on rights and privileges

## PART I

### STANDARDS

3. This Act applies to every psychiatric facility. R.S.O. 1970, c. 269, s. 2. Application of Act

4. Every psychiatric facility has power to carry on its undertaking as authorized by any Act, but, where the provisions of any Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations prevail. R.S.O. 1970, c. 269, s. 3. Conflict

5.—(1) The Minister may designate officers of the Ministry or appoint persons who shall advise and assist medical officers of health, local boards of health, hospitals and other bodies and persons in all matters pertaining to mental health and who shall have such other duties as are assigned to them by this Act or the regulations. R.S.O. 1970, c. 269, s. 4 (1); 1972, c. 1, s. 1. Advisory officers

(2) Any such officer or person may at any time, and shall be permitted so to do by the authorities thereat, visit and inspect any psychiatric facility, and in so doing may interview patients, examine books, records and other documents relating to patients, examine the condition of the psychiatric facility and its equipment, and inquire into the adequacy of its staff, the range of services provided and any other matter he considers relevant to the maintenance of standards of patient care. R.S.O. 1970, c. 269, s. 4 (2). Powers

6. The Minister may pay psychiatric facilities provincial aid in such manner, in such amounts and under such conditions as are prescribed by the regulations. R.S.O. 1970, c. 269, s. 5. Provincial aid

## PART II

### HOSPITALIZATION

7. Notwithstanding this or any other Act, admission to a psychiatric facility may be refused where the immediate needs in the case of the proposed patient are such that hospitalization is not urgent or necessary. R.S.O. 1970, c. 269, s. 6. Where admission may be refused

Admission  
of informal  
patients

8. Any person who is believed to be in need of the observation, care and treatment provided in a psychiatric facility may be admitted thereto as an informal patient upon the recommendation of a physician. R.S.O. 1970, c. 269, s. 7.

Application  
for  
psychiatric  
assessment

9.—(1) Where a physician examines a person and has reasonable cause to believe that the person,

- (a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself;
- (b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or
- (c) has shown or is showing a lack of competence to care for himself,

and if in addition the physician is of the opinion that the person is apparently suffering from mental disorder of a nature or quality that likely will result in,

- (d) serious bodily harm to the person;
- (e) serious bodily harm to another person; or
- (f) imminent and serious physical impairment of the person,

the physician may make application in the prescribed form for a psychiatric assessment of the person.

Contents of  
application

(2) An application under subsection (1) shall set out clearly that the physician who signs the application personally examined the person who is the subject of the application and made careful inquiry into all of the facts necessary for him to form his opinion as to the nature and quality of the mental disorder of the person.

Idem

(3) A physician who signs an application under subsection (1),

- (a) shall set out in the application the facts upon which he formed his opinion as to the nature and quality of the mental disorder;
- (b) shall distinguish in the application between the facts observed by him and the facts communicated to him by others; and
- (c) shall note in the application the date on which he examined the person who is the subject of the application.

(4) An application under subsection (1) is not effective unless it is signed by the physician within seven days after he examined the person who is the subject of the examination. Signing of application

(5) An application under subsection (1) is sufficient authority for seven days from and including the day on which it is signed by the physician, Authority of application

(a) to any person to take the person who is the subject of the application in custody to a psychiatric facility forthwith; and

(b) to detain the person who is the subject of the application in a psychiatric facility and to restrain, observe and examine him in the facility for not more than 120 hours. 1978, c. 50, s. 3.

10.—(1) Where information upon oath is brought before a justice of the peace that a person within the limits of the jurisdiction of the justice, Justice of the peace's order for psychiatric assessment

(a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself;

(b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or

(c) has shown or is showing a lack of competence to care for himself,

and in addition based upon the information before him the justice of the peace has reasonable cause to believe that the person is apparently suffering from mental disorder of a nature or quality that likely will result in,

(d) serious bodily harm to the person;

(e) serious bodily harm to another person; or

(f) imminent and serious physical impairment of the person,

the justice of the peace may issue his order in the prescribed form for the assessment of the person by a physician. 1978, c. 50, s. 4 (1).

(2) An order under this section may be directed to all or any constables or other peace officers of the locality within Idem

which the justice has jurisdiction and shall name or otherwise describe the person with respect to whom the order has been made. R.S.O. 1970, c. 269, s. 9 (3).

Authority  
of order

(3) An order under this section shall direct, and, for a period not to exceed seven days from and including the day that it is made, is sufficient authority for any constable or other peace officer to whom it is addressed to take the person named or described therein in custody forthwith to an appropriate place where he may be detained for assessment by a physician. 1978, c. 50, s. 4 (3).

Action  
by peace  
officer

**11.** Where a constable or other peace officer observes a person who acts in a manner that in a normal person would be disorderly and has reasonable cause to believe that the person,

- (a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself;
- (b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or
- (c) has shown or is showing a lack of competence to care for himself,

and in addition the constable or other peace officer is of the opinion that the person is apparently suffering from mental disorder of a nature or quality that likely will result in,

- (d) serious bodily harm to the person;
- (e) serious bodily harm to another person; or
- (f) imminent and serious physical impairment of the person,

and that it would be dangerous to proceed under section 10, the constable or other peace officer may take the person in custody to an appropriate place for assessment by a physician. 1978, c. 50, s. 5, *part*.

Place of  
psychiatric  
assessment

**12.** An assessment under section 10 or 11 shall be conducted by a physician forthwith after receipt of the person at the place of assessment and where practicable the place shall be a psychiatric facility or other health facility. 1978, c. 50, s. 5, *part*.

Change from  
informal  
patient to  
involuntary  
patient

**13.** Subject to subsection 14 (5), the attending physician may change the status of an informal patient to that of an involuntary

patient by completing and filing with the officer in charge a certificate of involuntary admission. 1978, c. 50, s. 5, *part*.

**14.—**(1) The attending physician, after observing and <sup>Duty of attending physician</sup> examining a person who is the subject of an application for assessment under section 9 or who is the subject of an order under section 26,

- (a) shall release the person from the psychiatric facility if the attending physician is of the opinion that the person is not in need of the treatment provided in a psychiatric facility;
- (b) shall admit the person as an informal patient if the attending physician is of the opinion that the person is suffering from mental disorder of such a nature or quality that the person is in need of the treatment provided in a psychiatric facility and is suitable for admission as an informal patient; or
- (c) shall admit the person as an involuntary patient by completing and filing with the officer in charge a certificate of involuntary admission if the attending physician is of the opinion both that the person is suffering from mental disorder of a nature or quality that likely will result in,
  - (i) serious bodily harm to the person,
  - (ii) serious bodily harm to another person, or
  - (iii) imminent and serious physical impairment of the person,

unless the person remains in the custody of a psychiatric facility and that the person is not suitable for admission as an informal patient.

(2) The physician who completes a certificate of involuntary admission pursuant to clause (1) (c) shall not be the same physician who completed the application for psychiatric assessment pursuant to section 9. <sup>Physician who completes certificate of involuntary admission</sup>

(3) The officer in charge shall release a person who is the subject of an application for assessment under section 9 or who is the subject of an order under section 26 upon the completion of 120 hours of detention in the psychiatric facility unless the attending physician has released the person, has admitted the person as an informal patient or has admitted the person as an involuntary patient by completing and <sup>Release of person by officer in charge</sup>



filing with the officer in charge a certificate of involuntary admission.

Authority of  
certificate

(4) An involuntary patient may be detained, restrained, observed and examined in a psychiatric facility,

(a) for not more than two weeks under a certificate of involuntary admission; and

(b) for not more than,

(i) one additional month under a first certificate of renewal,

(ii) two additional months under a second certificate of renewal, and

(iii) three additional months under a third or subsequent certificate of renewal,

that is completed and filed with the officer in charge by the attending physician.

Conditions  
precedent  
to making  
of certificate  
of involuntary  
admission or  
certificate of  
renewal

(5) The attending physician shall not complete a certificate of involuntary admission or a certificate of renewal unless, after he has examined the patient, he is of the opinion both,

(a) that the patient is suffering from mental disorder of a nature or quality that likely will result in,

(i) serious bodily harm to the patient,

(ii) serious bodily harm to another person, or

(iii) imminent and serious physical impairment of the patient,

unless the patient remains in the custody of a psychiatric facility; and

(b) that the patient is not suitable for admission or continuation as an informal patient. 1978, c. 50, s. 6 (1).

Change of  
status, where  
period of  
detention  
has expired

(6) An involuntary patient whose authorized period of detention has expired shall be deemed to be an informal patient.

Idem, where  
period of  
detention  
has not  
expired

(7) An involuntary patient whose authorized period of detention has not expired may be continued as an informal

patient upon completion of the prescribed form by the attending physician. R.S.O. 1970, c. 269, s. 13 (4, 5).

(8) Forthwith following completion and filing of a certificate of involuntary admission or of a certificate of renewal, the officer in charge or his delegate shall review the certification documents to ascertain whether or not they have been completed in compliance with the criteria outlined in this Act and where, in his opinion, the documents are not properly completed, the officer in charge shall so inform the attending physician and, unless the person is re-examined and released or admitted in accordance with subsections (1) and (2), the officer in charge shall release the person. 1978, c. 50, s. 6 (2).

Examination of certificate by officer in charge

15.—(1) Where a judge has reason to believe that a person who appears before him charged with or convicted of an offence suffers from mental disorder, the judge may order the person to attend a psychiatric facility for examination.

Judge's order for examination

(2) Where an examination is made under this section, the senior physician shall report in writing to the judge as to the mental condition of the person.

Senior physician's report

(3) If the senior physician reports that the person examined needs treatment, the judge may order the person to attend a psychiatric facility for treatment. R.S.O. 1970, c. 269, s. 14.

Judge's order for treatment

16.—(1) Where a judge has reason to believe that a person in custody who appears before him charged with an offence suffers from mental disorder, the judge may, by order, remand that person for admission as a patient to a psychiatric facility for a period of not more than two months.

Judge's order for admission

(2) Before the expiration of the time mentioned in such order, the senior physician shall report in writing to the judge as to the mental condition of the person. R.S.O. 1970, c. 269, s. 15.

Senior physician's report

17. A judge shall not make an order under section 15 or 16 until he ascertains from the senior physician of a psychiatric facility that the services of the psychiatric facility are available to the person to be named in the order. R.S.O. 1970, c. 269, s. 16.

Condition precedent to judge's order

18. Notwithstanding this or any other Act or any regulation made under any other Act, the senior physician may report all or any part of the information compiled by the psychiatric facility to any person where, in the opinion of

Contents of senior physician's report

the senior physician, it is in the best interests of the person who is the subject of an order made under section 15 or 16. R.S.O. 1970, c. 269, s. 17.

Persons  
detained  
under  
R.S.C. 1970,  
c. C-34

**19.** Any person who, pursuant to the *Criminal Code* (Canada), is,

(a) remanded to custody for observation; or

(b) detained under the authority of a warrant of the Lieutenant Governor,

may be admitted to, detained in, and discharged from a psychiatric facility in accordance with the law. R.S.O. 1970, c. 269, s. 18.

Communi-  
cations to  
and from  
patients

**20.**—(1) Except as provided in this section, no communication written by a patient or sent to a patient shall be opened, examined or withheld, and its delivery shall not in any way be obstructed or delayed.

Where  
communica-  
tion may be  
withheld

(2) Where the officer in charge or a person acting under his authority has reasonable and probable cause to believe,

(a) that the contents of a communication written by a patient would,

(i) be unreasonably offensive to the addressee, or

(ii) prejudice the best interests of the patient; or

(b) that the contents of a communication sent to a patient would,

(i) interfere with the treatment of the patient, or

(ii) cause the patient unnecessary distress,

the officer in charge or a person acting under his authority may open and examine the contents thereof and, if any condition mentioned in clause (a) or (b), as the case may be, exists, may withhold such communication from delivery.

Exceptions

(3) Subsection (2) does not apply to a communication written by a patient to, or appearing to be sent to a patient by,

(a) a barrister and solicitor;

(b) a member of a review board or advisory review board under this Act; or

- (c) a member of the Assembly. R.S.O. 1970, c. 269, s. 19.

**21.—**(1) The officer in charge may, upon the advice of <sup>Leave of absence</sup> the attending physician, place a patient on leave of absence from the psychiatric facility for a designated period of not more than three months, if the intention is that the patient shall return thereto.

(2) Leave of absence may be permitted upon such terms <sup>Terms and conditions</sup> and conditions as the officer in charge may prescribe.

(3) Subsection (1) does not authorize the placing of a patient <sup>Exception</sup> on leave of absence where he is subject to detention otherwise than under this Act. R.S.O. 1970, c. 269, s. 20.

**22.—**(1) Where a person who is subject to detention is <sup>Unauthorized absence</sup> absent without leave from a psychiatric facility, a constable or other peace officer or any one appointed by the officer in charge may return the person to the psychiatric facility or take the person to the psychiatric facility nearest to the place where the person is apprehended,

(a) within twenty-four hours after his absence becomes known to the officer in charge; or

(b) under the authority of an order in the prescribed form issued by the officer in charge, within one month after his absence becomes known to the officer in charge. R.S.O. 1970, c. 269, s. 21 (1); 1978, c. 50, s. 7.

(2) A patient who is being returned under subsection (1) <sup>Detention during return</sup> may be detained in an appropriate place in the course of his return.

(3) For the purposes of this Act, a patient who is returned <sup>Period of detention upon return</sup> under subsection (1) may be detained for the remainder of the period of detention to which he was subject when his absence became known to the officer in charge.

(4) Where a patient is not returned within one month <sup>Where not returned</sup> after his absence became known to the officer in charge, he shall, unless subject to detention otherwise than under this Act, be deemed to be discharged from the psychiatric facility.

(5) No person shall do or omit to do any act for the pur- <sup>Prohibitions</sup> pose of aiding, assisting, abetting or counselling a patient in a psychiatric facility to be absent without authorization. R.S.O. 1970, c. 269, s. 21 (2-5).

Transfer  
of patients  
from one  
facility to  
another

**23.**—(1) Upon the advice of the attending physician, the officer in charge of a psychiatric facility may, if otherwise permitted by law and subject to arrangements being made with the officer in charge of another psychiatric facility, transfer a patient to such other psychiatric facility upon completing a memorandum of transfer in the prescribed form.

Authority  
to detain

(2) Where a patient is transferred under subsection (1), the authority to detain him continues in force in the psychiatric facility to which he is so transferred. R.S.O. 1970, c. 269, s. 22.

Treatment  
in public  
hospital

**24.**—(1) Upon the advice of the attending physician that a patient requires hospital treatment that cannot be supplied in the psychiatric facility, the officer in charge may, if otherwise permitted by law, transfer the patient to a public hospital for such treatment and return him to the psychiatric facility upon the conclusion thereof.

Powers of  
superin-  
tendent

(2) Where a patient is transferred under subsection (1), the superintendent of the public hospital has, in addition to the powers conferred upon him by the Act under which the hospital operates, the powers under this Act of an officer in charge of a psychiatric facility in respect of the custody and control of the patient. R.S.O. 1970, c. 269, s. 23.

Transfer of  
patients to  
institutions  
outside  
Ontario

**25.** Where it appears to the Minister,

- (a) that a patient in a psychiatric facility has come or been brought into Ontario from elsewhere and his hospitalization is the responsibility of another jurisdiction; or
- (b) that it would be in the best interests of a patient in a psychiatric facility to be hospitalized in another jurisdiction,

the Minister may, upon compliance in Ontario with necessary modifications with the laws respecting hospitalization in such other jurisdiction, by warrant in the prescribed form authorize his transfer thereto. R.S.O. 1970, c. 269, s. 24.

Mentally  
disordered  
person  
coming into  
Ontario

**26.** Where the Minister has reasonable cause to believe that there may come or be brought into Ontario a person suffering from mental disorder of a nature or quality that likely will result in,

- (a) serious bodily harm to the person; or
- (b) serious bodily harm to another person,

unless the person is placed in the custody of a psychiatric facility, the Minister by an order in the prescribed form may authorize any one to take the person in custody to a psychiatric facility and the order is authority to admit, detain, restrain, observe and examine the person in the psychiatric facility. 1978, c. 50, s. 8.

**27.** A constable or other peace officer or any one who takes a person in custody to a psychiatric facility shall remain at the facility and retain custody of the person so taken until the facility accepts the custody of the person. 1978, c. 50, s. 9. Duty of constable, other peace officer or other person

**28.—(1)** A patient shall be discharged from a psychiatric facility when he is no longer in need of the observation, care and treatment provided therein. Discharge of patients

(2) Subsection (1) does not authorize the discharge into the community of a patient who is subject to detention otherwise than under this Act. R.S.O. 1970, c. 269, s. 26. Exception

**29.—(1)** In this section,

Interpretation

(a) "clinical record" means the clinical record compiled in a psychiatric facility in respect of a patient, and includes a part of a clinical record;

(b) "patient" includes former patient, out-patient, and former out-patient.

(2) Except as provided in subsections (3) and (5), no person shall disclose, transmit or examine a clinical record. Disclosure of clinical record

(3) The officer in charge and the attending physician in the psychiatric facility in which a clinical record was prepared may examine the clinical record and the officer in charge may disclose or transmit the clinical record to or permit the examination of the clinical record by, Idem

(a) where the patient has attained the age of majority and is mentally competent, any person with the consent of the patient;

(b) where the patient has not attained the age of majority or is not mentally competent, any person with the consent of the nearest relative of the patient;

(c) any person employed in or on the staff of the psychiatric facility for the purpose of assessing or

treating or assisting in assessing or treating the patient;

- (d) the chief executive officer of a health facility that is currently involved in the direct health care of the patient upon the written request of the chief executive officer to the officer in charge;
- (e) with the consent of the patient or, where the patient has not attained the age of majority or is not mentally competent, with the consent of the nearest relative of the patient or, where delay in obtaining the consent of either of them would endanger the life, a limb or a vital organ of the patient, without the consent of either of them, a person currently involved in the direct health care of the patient in a health facility;
- (f) a person for the purpose of research, academic pursuits or the compilation of statistical data.

Use of  
material  
in clinical  
record for  
research,  
study or  
statistics

(4) Where a clinical record,

- (a) is transmitted or copied for use outside the psychiatric facility for the purpose of research, academic pursuits or the compilation of statistical data, the officer in charge shall remove from the part of the clinical record that is transmitted or from the copy, as the case may be, the name of and any means of identifying the patient; and
- (b) is disclosed to or examined by a person for the purpose of research, academic pursuits or the compilation of statistical data, the person shall not disclose the name of or any means of identifying the patient and shall not use or communicate the information or material in the clinical record for a purpose other than research, academic pursuits or the compilation of statistical data.

Disclosure  
pursuant to  
subpoena

(5) Subject to subsections (6) and (7), the officer in charge or a person designated in writing by the officer in charge shall disclose, transmit or permit the examination of a clinical record pursuant to a subpoena, order, direction, notice or similar requirement in respect of a matter in issue or that may be in issue in a court of competent jurisdiction or under any Act.

Statement  
by attending  
physician

(6) Where the disclosure, transmittal or examination of a clinical record is required by a subpoena, order, direction,

notice or similar requirement in respect of a matter in issue or that may be in issue in a court of competent jurisdiction or under any Act and the attending physician states in writing that he is of the opinion that the disclosure, transmittal or examination of the clinical record or of a specified part of the clinical record,

(a) is likely to result in harm to the treatment or recovery of the patient; or

(b) is likely to result in,

(i) injury to the mental condition of a third person, or

(ii) bodily harm to a third person,

no person shall comply with the requirement with respect to the clinical record or the part of the clinical record specified by the attending physician except under an order of,

(c) the court before which the matter is or may be in issue; or

(d) where the disclosure, transmittal or examination is not required by a court, under an order of the Divisional Court,

made after a hearing from which the public is excluded and that is held on notice to the attending physician.

(7) On a hearing under subsection (6), the court or body shall consider whether or not the disclosure, transmittal or examination of the clinical record or the part of the clinical record specified by the attending physician

Matters  
to be  
considered by  
court or body

(a) is likely to result in harm to the treatment or recovery of the patient; or

(b) is likely to result in,

(i) injury to the mental condition of a third person, or

(ii) bodily harm to a third person,

and for the purpose the court or body may examine the clinical record, and, if satisfied that such a result is likely,



the court or body shall not order the disclosure, transmittal or examination unless satisfied that to do so is essential in the interests of justice.

Return of  
clinical  
record to  
officer in  
charge

(8) Where a clinical record is required pursuant to subsection (5) or (6), the clerk of the court or body in which the clinical record is admitted in evidence or, if not so admitted, the person to whom the clinical record is transmitted shall return the clinical record to the officer in charge forthwith after the determination of the matter in issue in respect of which the clinical record was required.

Disclosure  
in action or  
proceeding

(9) No person shall disclose in an action or proceeding in any court or before any body any knowledge or information in respect of a patient obtained in the course of assessing or treating or assisting in assessing or treating the patient in a psychiatric facility or in the course of his employment in the psychiatric facility except,

(a) where the patient has attained the age of majority and is mentally competent, with the consent of the patient;

(b) where the patient has not attained the age of majority or is not mentally competent, with the consent of the nearest relative of the patient; or

(c) where the court or, in the case of a proceeding not before a court, the Divisional Court determines, after a hearing from which the public is excluded and that is held on notice to the patient or (where the patient has not attained the age of majority or is not mentally competent) the nearest relative of the patient, that the disclosure is essential in the interests of justice. 1978, c. 50, s. 10.

Review  
boards

**30.**—(1) The Lieutenant Governor in Council may appoint a review board for any one or more psychiatric facilities.

Composition

(2) A review board shall be composed of three or five members, at least one and not more than two of whom are psychiatrists and at least one and not more than two of whom are barristers and solicitors and at least one of whom is not a psychiatrist or a barrister and solicitor.

Chairman

(3) The Lieutenant Governor in Council may designate one of the members of a review board as chairman.

(4) The Lieutenant Governor in Council may appoint alternate members to a review board, and, where for any reason a member cannot act, the alternate member appropriate to comply with subsection (2) shall act in his stead. Alternate members

(5) An officer or servant of, or a person with a direct financial interest in, a psychiatric facility shall not act as a member of a review board when the case of a patient of that facility is being reviewed. Disqualification

(6) A member shall hold office for the period, not to exceed three years, specified in his appointment, but is eligible for reappointment at the expiration of his term of office. Term of office

(7) A psychiatrist and a barrister and solicitor and another member who is not a psychiatrist or a barrister and solicitor constitute a quorum, and the decision of a majority is the decision of the review board. R.S.O. 1970, c. 269, s. 27. Quorum

**31.—**(1) An involuntary patient, or any person on his behalf, may apply in the prescribed form to the chairman of the regional review board having jurisdiction to inquire into whether the patient is suffering from mental disorder of a nature or quality that likely will result in, Application for review by patient, etc.

(a) serious bodily harm to the patient;

(b) serious bodily harm to another person; or

(c) imminent and serious physical impairment of the patient,

unless the patient remains an involuntary patient in the custody of a psychiatric facility.

(2) An application under subsection (1) may be made,

When application may be made

(a) when a certificate of involuntary admission respecting the patient comes into force;

(b) when any certificate of renewal respecting the patient comes into force; or

(c) when the patient, after having been admitted to a psychiatric facility, is subsequently continued as an involuntary patient.

Application  
for review  
by Minister,  
etc.

(3) An application under subsection (1) may be made at any time by the Minister, the Deputy Minister or the officer in charge in respect of any involuntary patient.

Where notice  
deemed to  
have been  
given

(4) On the completion of a fourth certificate of renewal and on the completion of every fourth certificate of renewal thereafter, the patient shall be deemed to have applied in the prescribed form pursuant to subsection (1) to the chairman of the regional review board having jurisdiction. 1978, c. 50, s. 11, *part*.

Inquiry and  
hearing

**32.**—(1) Upon receipt of an application by the chairman, the review board shall conduct such inquiry as it considers necessary to reach a decision and may hold a hearing, which in the discretion of the review board may be *in camera*, for the purpose of receiving oral testimony.

Attendance  
of patient  
at hearing

(2) Where a hearing is held, the patient may attend the hearing unless otherwise directed by the chairman and, where he does not attend, he may have a person appear as his representative.

Rights of  
patient at  
hearing

(3) Where a hearing is held, the patient or his representative may call witnesses and make submissions and, with the permission of the chairman, may cross-examine witnesses.

Information,  
reports, etc.

(4) The officer in charge shall, for the purpose of an inquiry, furnish the chairman with such information and reports as the chairman requests.

Interview  
may be  
private

(5) The review board or any member thereof may interview a patient or other person in private. R.S.O. 1970, c. 269, s. 29.

Report

**33.**—(1) Upon the conclusion of an inquiry, the chairman shall prepare a written report of the decision of the review board and within the time prescribed by the regulations transmit a copy thereof to the applicant and to the officer in charge where he is not the applicant.

Implemen-  
tation of  
report

(2) Upon receipt of a copy of the decision, the officer in charge shall take any action required to give effect thereto. R.S.O. 1970, c. 269, s. 30.

Advisory  
review  
boards

**34.**—(1) The Lieutenant Governor in Council may appoint an advisory review board for any one or more psychiatric facilities that has a review board.

(2) An advisory review board shall be composed of a judge Composition or a retired judge of the Supreme Court who shall serve as chairman, a psychiatrist and any three members who constitute a quorum of the review board.

(3) Subsections 30 (4), (5) and (6) apply with necessary modifications to the members of an advisory review board. Alternate members, etc.

(4) The five members of an advisory review board constitute a quorum and the recommendation of a four-fifths majority is the recommendation of the advisory review board. Quorum

(5) The case of every patient in a psychiatric facility who is detained under the authority of a warrant of the Lieutenant Governor under the *Criminal Code* (Canada) shall be considered by the advisory review board having jurisdiction once in every year, commencing with the year next after the year in which the warrant was issued. Functions R.S.C. 1970, c. C-34

(6) Notwithstanding subsection (5), the advisory review board shall consider the case of any patient to which that subsection applies at any time upon the written request of the Minister. Idem

(7) Section 32 applies with necessary modifications to cases under this section. Application of s. 32

(8) Upon the conclusion of an inquiry, the chairman shall Report prepare a written report of the recommendations of the advisory review board and, within the time prescribed by the regulations, shall transmit a copy thereof to the Lieutenant Governor in Council, and may in his discretion transmit a copy thereof to any other person. R.S.O. 1970, c. 269, s. 31.

**35.**—(1) In this section, “psychosurgery” means any procedure that, by direct or indirect access to the brain, removes, destroys or interrupts the continuity of histologically normal brain tissue, or which inserts indwelling electrodes for pulsed electrical stimulation for the purpose of altering behaviour or treating psychiatric illness, but does not include neurological procedures used to diagnose or treat organic brain conditions or to diagnose or treat intractable physical pain or epilepsy where these conditions are clearly demonstrable. Interpretation

(2) Psychiatric treatment shall not be given to an involuntary patient without the consent of the patient or, where the patient has not reached the age of majority or is Consent to treatment

not mentally competent, the consent of the nearest relative of the patient except under the authority of an order of a regional review board made on the application of the officer in charge.

Consent to  
psycho-  
surgery

(3) The consent of an involuntary patient or the nearest relative of an involuntary patient to treatment while an involuntary patient does not include and shall not be deemed to include psychosurgery.

Application  
to regional  
review  
board

(4) Where,

(a) an involuntary patient or the nearest relative of an involuntary patient, as the case requires, refuses consent or an involuntary patient is not mentally competent and there is no relative of the patient from whom consent may be requested to the provision of a specific psychiatric treatment or a specific course of psychiatric treatment to the patient; and

(b) the attending physician, a psychiatrist who is a member and a psychiatrist who is not a member of the medical staff of the psychiatric facility in which the patient is detained each state in the prescribed form;

(i) that he has examined the patient,

(ii) that he is of the opinion that the mental condition of the patient will be or is likely to be substantially improved by the specific psychiatric treatment or the specific course of psychiatric treatment, and

(iii) that the mental condition of the patient will not or is not likely to improve without the specific treatment or course of treatment,

the attending physician on notice to the patient or the nearest relative, as the case requires, may apply to the regional review board for an order authorizing the providing of the treatment or course of treatment to the patient.

Hearing

(5) Where the attending physician applies for a hearing under subsection (4), the regional review board shall appoint a time for and hold the hearing and shall issue its decision

within seven days after the completion of the hearing and, where the board is satisfied,

- (a) that the mental condition of the patient will be or is likely to be substantially improved by the specific psychiatric treatment or course of treatment for the providing of which authority is sought; and
- (b) that the mental condition of the patient will not or is not likely to improve without the specific psychiatric treatment or course of treatment,

the board by order may authorize the providing of the psychiatric treatment or course of treatment specified in the application, but the board shall not authorize and no order of the board is or shall be deemed to be authority to perform psychosurgery.

(6) The attending physician and the patient or, where the patient is not mentally competent, the nearest relative or, if none, the Official Guardian and such other persons as the regional review board may specify are parties to the proceedings before the board. 1978, c. 50, s. 12.

### PART III

#### ESTATES

**36.**—(1) Forthwith upon the admission of a patient to a psychiatric facility, a physician shall examine the patient to determine whether or not he is competent to manage his estate. Examination as to competency to manage estate. upon admission

(2) The attending physician may examine a patient and a physician may examine an out-patient at any time to determine whether or not the patient or out-patient is competent to manage his estate. Idem

(3) After an examination under subsection (1) or (2), the physician or attending physician, as the case may be, shall enter his determination, together with written reasons therefor, in the clinical record prepared in respect of the patient. Entry of determination and reasons in clinical record

Certificate of  
incompetence

(4) A physician or attending physician who performs an examination under subsection (1) or (2) and who is of the opinion that the patient or out-patient is not competent to manage his estate shall issue a certificate of incompetence in the prescribed form and the officer in charge shall transmit the certificate to the Public Trustee.

Idem,  
exceptional  
circum-  
stances

(5) Where circumstances are such that the Public Trustee should immediately assume management of an estate, the officer in charge or, where the officer in charge is not present in the psychiatric facility, the physician or attending physician shall notify the Public Trustee in the fastest manner possible that a certificate of incompetence has been issued.

Appointment  
by patient

(6) A patient or out-patient may appoint the Public Trustee as committee of the estate of the patient or out-patient.

Idem

(7) An appointment under subsection (6),

(a) is not valid unless it is signed and sealed by the patient or out-patient; and

(b) may be revoked by a written revocation signed and sealed by the patient or out-patient.

Where Public  
Trustee is  
committee  
at time of  
admission  
or receipt  
of patient or  
out-patient

(8) Where the Public Trustee is committee of the estate of a patient or out-patient at the time of his admission to or receipt in a psychiatric facility, a certificate of incompetence shall be deemed to have been issued and transmitted to the Public Trustee under subsection (4).

Where  
subs. (1-8)  
do not  
apply

(9) Subsections (1) to (8) do not apply to a patient or out-patient whose estate is under committeehip under the *Mental Incompetency Act*. 1978, c. 50, s. 13, *part*.

Where Public  
Trustee may  
replace  
committee  
appointed  
under  
R.S.O. 1980,  
c. 264

**37.**—(1) Notwithstanding that under the *Mental Incompetency Act* a person other than the Public Trustee has been appointed as the committee of the estate of a patient or out-patient, the Supreme Court may at any time upon the application of the Public Trustee appoint him as committee in the stead of the person appointed under that Act, and on appointment the Public Trustee has and may exercise all the rights and powers conferred upon him by this Act with regard to the management of estates.

Duty of  
Public Trustee  
where  
committee  
appointed  
under  
R.S.O. 1980,  
c. 264

(2) If at any time a committee of the estate of a patient or out-patient is appointed under the *Mental Incompetency Act*, the Public Trustee thereupon ceases to be committee and shall account for and transfer to the committee so appointed

the estate of the patient or out-patient that has come into his hands.

(3) An order shall not be made under the *Mental Incompetency Act* for the appointment of a committee of a patient or out-patient without the consent of the Public Trustee unless seven days notice of the application has been given to him.

Consent of  
Public  
Trustee  
to order  
R.S.O. 1980,  
c. 264

(4) The acts of the Public Trustee while committee of a patient or out-patient are not rendered invalid by the making of an order appointing another committee. 1978, c. 50, s. 13, *part.*

Acts of  
Public  
Trustee not  
affected

**38.** The Public Trustee is committee of the estate of a patient or out-patient and shall assume management thereof,

Where  
Public  
Trustee  
committee

(a) upon receipt of a certificate of incompetence;

(b) upon receipt of notice under subsection 36 (5);

(c) upon receipt of an appointment under subsection 36 (6);  
or

(d) upon receipt of a notice of continuance under section 41. 1978, c. 50, s. 13, *part.*

**39.** Upon the Public Trustee becoming committee of the estate of a patient or out-patient, the officer in charge shall forthwith forward a financial statement in the prescribed form to the Public Trustee. 1978, c. 50, s. 13, *part.*

Financial  
statement

**40.** The attending physician may, after examining a patient or out-patient for that purpose, cancel the certificate of incompetence issued in respect of the patient or out-patient and the officer in charge shall forward a notice of cancellation in the prescribed form to the Public Trustee. 1978, c. 50, s. 13, *part.*

Cancellation  
of certificate  
of  
incompetence

**41.—(1)** Where the Public Trustee is managing the estate of a patient or out-patient, the attending physician shall examine the patient or out-patient within twenty-one days before he is discharged from a psychiatric facility to determine whether or not he will be competent to manage his estate.

Examination  
as to  
competency  
before  
discharge

(2) Where the attending physician is of the opinion, after the examination referred to in subsection (1), that the patient or out-patient will not, upon discharge, be competent to manage his estate, he shall issue a notice of continuance in the prescribed form and the officer in charge shall forward the notice to the Public Trustee.

Notice of  
continuance



Where notice  
of discharge  
to be  
transmitted  
to Public  
Trustee

(3) The officer in charge shall transmit to the Public Trustee notice of the discharge from the psychiatric facility of a patient or an out-patient in respect of whom a certificate of incompetence is in force. 1978, c. 50, s. 13, *part*.

Where  
Public  
Trustee  
ceases  
to be  
committee

**42.** The Public Trustee ceases to be committee of the estate of a patient or out-patient and shall relinquish management thereof,

- (a) upon receipt of notice of cancellation of the certificate of incompetence of the patient or out-patient;
- (b) upon receipt of a revocation in writing, signed and sealed by the patient or out-patient, of an appointment referred to in subsection 36 (6);
- (c) upon receipt of notice of discharge of the patient or out-patient, unless he has at that time received a notice of continuance; or
- (d) upon the expiration of six months after the discharge of the patient or out-patient, where a notice of continuance was received. 1978, c. 50, s. 13, *part*.

Application  
to review  
board as to  
competency

**43.—**(1) Where a certificate of incompetence or a notice of continuance has been issued, the patient or out-patient may apply in the prescribed form to the chairman of the review board having jurisdiction to inquire into whether or not the patient or out-patient is competent to manage his estate. 1978, c. 50, s. 14 (1).

Application  
of ss. 31-33

(2) Except that applications may be made not more frequently than once in any six-month period, sections 31, 32 and 33 apply with necessary modifications to applications under subsection (1). R.S.O. 1970, c. 269, s. 39 (2); 1978, c. 50, s. 14 (2).

Leave of  
judge to  
bring action

**44.** No person, other than the Public Trustee, shall bring an action as next friend of a person of whose estate the Public Trustee is committee under this Act or by an order made under this Act without the leave of a judge of the court in which the action is intended to be brought, and the Public Trustee shall be served with notice of the application for such leave. R.S.O. 1970, c. 269, s. 40.

Service of  
documents

**45.** Where an action or proceeding is brought or taken against a person,

- (a) who is a patient or out-patient; and

- (b) for whose estate a committee has not been appointed by a court,

and the action or proceeding is in connection with the estate of the person, the writ or other document by which the action or proceeding is commenced and any other document requiring personal service,

- (c) shall be endorsed with the name of the psychiatric facility in or of which the person is a patient or out-patient;

- (d) shall be served,

(i) on the Public Trustee, and

- (ii) on the person, or, where the attending physician is of the opinion that personal service on the person would cause or would be likely to cause serious harm to him by reason of his mental condition, on the officer in charge.  
1978, c. 50, s. 15, *part.*

**46.** The Public Trustee as committee of a patient or out-patient has and may exercise all the rights and powers with regard to the estate of the patient or out-patient that the patient or out-patient would have if of full age and of sound and disposing mind. 1978, c. 50, s. 15, *part.*

Rights and powers of Public Trustee as committee

**47.** A person of whose estate the Public Trustee is committee under this Act or by an order made under this Act and his heirs, executors, administrators, next of kin, legatees, devisees and assigns shall have the same interest in any money or other property, real or personal, arising from a sale, mortgage, exchange or other disposition by the Public Trustee acting as such committee as they would have had in the property the subject of the sale, mortgage, exchange or other disposition if no sale, mortgage, exchange or other disposition had been made, and the surplus money or property shall be of the same nature as the property sold, mortgaged, exchanged or disposed of. R.S.O. 1970, c. 269, s. 43.

Nature of proceeds of sale, etc.

**48.** Upon the Public Trustee becoming committee of the estate of a person under this Act or by an order made under this Act, every power of attorney of such person is void. R.S.O. 1970, c. 269, s. 44.

When powers of attorney void

**49.** A recital in a lease, mortgage or conveyance that a person is a patient in or an out-patient of a psychiatric facility and that the Public Trustee is his committee is

Recitals in documents

admissible in evidence as *prima facie* proof of the facts recited. 1978, c. 50, s. 15, *part.*

Purposes  
for which  
powers of  
Public  
Trustee  
may be  
exercised

50. The powers conferred upon the Public Trustee as committee of the estate of a patient or out-patient may be exercised,

- (a) until the committeehip is terminated notwithstanding that the patient or out-patient has been discharged from the psychiatric facility;
- (b) to carry out and complete any transaction entered into by the patient or out-patient before he became a patient or out-patient in a psychiatric facility;
- (c) to carry out and complete any transaction entered into by the committee notwithstanding that the committeehip has been terminated or that the patient or out-patient has died after the transaction was commenced. 1978, c. 50, s. 15, *part.*

Lien of  
Public  
Trustee for  
costs, etc.

51.—(1) The costs, charges and expenses of the Public Trustee, including the costs, charges and expenses of or arising from or out of the passing of his accounts, whether before or after the termination of the committeehip or the death of the person of whose estate he is committee under this Act or by an order made under this Act, and any moneys advanced or liability incurred by him for or on behalf of such person or for the maintenance of such person's family are a lien upon the real and personal property of such person.

Notice of  
lien in  
case of real  
property

(2) In the case of real property, the Public Trustee may register in the proper land registry office a certificate under his hand and seal of office giving notice of the lien claimed and the real property against which it is claimed.

Withholding  
of moneys  
to secure  
costs

(3) Where the Public Trustee is proceeding to have his accounts passed after the termination of the committeehip or the death of a person referred to in subsection (1), the Public Trustee may withhold sufficient moneys from the person's estate to adequately secure the costs of or arising from or out of the passing of such accounts. R.S.O. 1970, c. 269, s. 47.

When gifts,  
etc., deemed  
fraudulent

52. Where the Public Trustee is committee of the estate of a patient or out-patient, every gift, grant, alienation, conveyance or transfer that is not made for full and valuable consideration actually paid or secured or that is made at or after the time when the purchaser or transferee had notice of

the mental condition of the patient or out-patient, of the fact that he was a patient or out-patient or of the committee-ship shall be deemed to be fraudulent and void as against the Public Trustee. 1978, c. 50, s. 15, *part*.

**53.** Upon the death of a patient or out-patient of whose estate the Public Trustee is committee and until letters probate of the will or letters of administration of the estate of the patient or out-patient are granted to a person other than the Public Trustee and notice thereof is given to the Public Trustee, the Public Trustee may continue to manage the estate and exercise with respect thereto the powers that an executor would have if the property were devised or bequeathed to him in trust for payment of debts and distribution of the residue. 1978, c. 50, s. 15, *part*. Death of patient or out-patient

**54.** The Public Trustee is liable to render an account as to the manner in which he has managed the property of a patient or an out-patient in the same way and subject to the same responsibility as any trustee, guardian or committee duly appointed for a similar purpose may be called upon to account, and is entitled from time to time to bring in and pass his accounts and tax costs in like manner as a trustee but is personally liable only for wilful misconduct. 1978, c. 50, s. 15, *part*. Passing of accounts

**55.** The Public Trustee may be allowed compensation for services rendered as committee of the estate of a patient or out-patient in an amount not exceeding the amount that a trustee would be allowed for like services, but in cases of poverty or hardship the Public Trustee may forego any claim for compensation. 1978, c. 50, s. 15, *part*. Compensation of Public Trustee

**56.—(1)** Where a person with respect to whom a notice of continuance has been received by the Public Trustee may not, based upon a report of the attending physician or other evidence available to the Public Trustee, be competent to manage his estate upon the termination of the committee-ship or a person discharged has refused or neglected to take his property or any part thereof from the Public Trustee, the Public Trustee may apply to the Divisional Court for directions as to the disposal of such property, and the court may make such order as it considers just, and may in its discretion order that the Public Trustee continue to manage the estate of such person with all the rights and powers that the Public Trustee would have had under this Act if the committee-ship had not been terminated. R.S.O. 1970, c. 269, s. 52 (1). Application for directions

Application  
for  
continuance  
of com-  
mitteeship

(2) Where the Divisional Court is satisfied, on application by the Public Trustee with notice to the person, that a person who was discharged as a patient or out-patient subject to a notice of continuance will continue to be incompetent to manage his estate after the expiry of the notice of continuance, the court by order may extend the committeeship of the Public Trustee for such period of time, or may make such other order, as the court considers proper.

Further  
orders

(3) Where the Public Trustee continues to manage an estate under subsection (1) or (2), the Divisional Court, upon application, may make such further order as it considers just and, in its discretion, may order that the management of the estate by the Public Trustee be relinquished. 1978, c. 50, s. 16.

Payments  
out of  
patient's or  
out-patient's  
moneys

57. The Public Trustee, out of the moneys in his hands belonging to a person who is a patient or out-patient of whose estate the Public Trustee is committee, shall pay the proper charges for maintenance of the person as a patient in or an out-patient of the psychiatric facility and the Public Trustee may also pay such sums as he considers advisable to the patient's or out-patient's family or other persons dependent upon him, and the payments for the maintenance of the family and other dependants may be made notwithstanding that such payments may prevent the payment of maintenance that otherwise would be due from the patient or out-patient. 1978, c. 50, s. 17, *part*.

Payments  
out of  
moneys  
in court

58. Moneys in court to the credit of a patient or out-patient of whose estate the Public Trustee is committee shall be paid out to the Public Trustee upon his written application, and it is not necessary to obtain an order of a court or a judge for such purpose. 1978, c. 50, s. 17, *part*.

What  
Public  
Trustee not  
required  
to do

59. Nothing in this Act makes it the duty of the Public Trustee to institute proceedings on behalf of a patient or out-patient of whose estate the Public Trustee is committee or to intervene in respect of the estate or any part thereof or to take charge of any property of the patient or out-patient. 1978, c. 50, s. 17, *part*.

Patients or  
out-patients  
in another  
province  
with estate  
in Ontario

60.—(1) Where a person who is suffering from a mental disorder is a patient in or an out-patient of a psychiatric facility in another province or territory of Canada and has estate situate in Ontario, the Lieutenant Governor in Council may appoint the official of the other province or territory who is charged with the duty of managing the estate of the person in the other province or territory to be committee of the estate in Ontario. 1978, c. 50, s. 18.

(2) The order making the appointment is conclusive proof <sup>Order conclusive</sup> that all the conditions precedent to the appointment have been fulfilled.

(3) The appointee under such an order possesses the same <sup>Rights and powers of appointee</sup> rights, powers, privileges and immunities as are conferred by this Act upon the Public Trustee and he is subject to the same obligations and shall perform the same duties. R.S.O. 1970, c. 269, s. 56 (2, 3).

## PART IV

### VETERANS, ETC.

61. The Lieutenant Governor in Council may authorize <sup>Agreement with Government of Canada authorized</sup> an agreement between Her Majesty the Queen in right of Ontario represented by the Minister and Her Majesty the Queen in right of Canada represented by the Minister of any department of the Government of Canada that is from time to time charged with the observation, care and treatment of persons who are suffering from a mental disorder whereunder that department may establish, operate, maintain, control and direct in Ontario psychiatric facilities within the meaning of this Act for the observation, care and treatment of such persons, and where such an agreement is made, it may provide that the provisions of Parts II and III of this Act and the relevant regulations, or any of them, apply with necessary modifications. R.S.O. 1970, c. 269, s. 57.

## PART V

### MISCELLANEOUS

62. All actions, prosecutions or other proceedings against <sup>Limitation of actions, etc.</sup> any person or psychiatric facility for anything done or omitted to be done in pursuance or intended pursuance of this Act or the regulations shall be commenced within six months after the act or omission complained of occurred and not afterwards. R.S.O. 1970, c. 269, s. 58.

63. No action lies against any psychiatric facility or <sup>Certain actions barred</sup> any officer, employee or servant thereof for a tort of any patient. R.S.O. 1970, c. 269, s. 59.

64. Every person who contravenes any provision of this <sup>Offence</sup> Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$10,000. 1978, c. 50, s. 19.

## Regulations

**65.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) designating and classifying psychiatric facilities, and exempting any psychiatric facility or class thereof from the application of any provision of the regulations made under clause (b);
- (b) in respect of psychiatric facilities or any class thereof,
  - (i) providing for the creation, establishment, construction, alteration, renovation and maintenance thereof,
  - (ii) prescribing the accommodation, facilities, equipment and services thereof,
  - (iii) providing for the government, management, conduct, operation, use and control thereof,
  - (iv) providing for the officers and staff and prescribing their qualifications,
  - (v) prescribing the forms, records, books, returns and reports to be made and kept in connection therewith and providing for returns, reports and information to be furnished to the Ministry;
- (c) prescribing additional duties of officers designated and persons appointed under subsection 5 (1);
- (d) prescribing the classes of grants by way of provincial aid to any psychiatric facility or class thereof and the methods of determining the amounts of grants and providing for the manner and times of payment and the suspension and withholding of grants and for the making of deductions from grants;
- (e) exempting any psychiatric facility or class thereof from the application of Part II;
- (f) classifying patients, and limiting the classes of patients that may be admitted to any psychiatric facility or class thereof;
- (g) respecting the examination and detention of persons and the admission, detention, leave of absence, absence without authorization, transfer, discharge and placement of patients;

- (h) prescribing the manner in which applications may be made to a review board;
- (i) governing and regulating hearings and other proceedings of review boards and advisory review boards;
- (j) prescribing the time in which decisions of review boards or recommendations of advisory review boards shall be transmitted;
- (k) providing for the remuneration and expenses of members of review boards and advisory review boards;
- (l) conferring ancillary functions upon review boards and advisory review boards;
- (m) exempting any psychiatric facility or class thereof from the application of Part III;
- (n) prescribing forms and providing for their use;
- (o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 269, s. 61 (1); 1972, c. 1, s. 1.

(2) Where, in the opinion of the Minister,

Relief from  
compliance

- (a) it is impracticable for a psychiatric facility to comply with any provision of the regulations made under clause (1) (b); and
- (b) it is in the best interests of the population served by such psychiatric facility,

he may, by his authorization in writing, relieve such psychiatric facility from the application of such provision for such period and upon such conditions as he specifies in the authorization.

(3) The *Regulations Act* does not apply to an authorization of the Minister made under subsection (2). R.S.O. 1980, c. 446 not to apply  
s. 61 (2, 3).

## PART VI

### UNPROCLAIMED AMENDMENTS

66. On a day to be named by proclamation of the Lieutenant Governor, Part II is amended by adding thereto the following section: Part II,  
amended



Notice of certificate to be given or transmitted to patient

30a.—(1) An attending physician who completes a certificate of involuntary admission or a certificate of renewal shall give or transmit a notice in writing of completion and filing of the certificate to the patient who is the subject of the certificate and to the area director for the area, in accordance with the *Legal Aid Act*, in which the psychiatric facility is located.

R.S.O. 1980,  
c. 234

Notice

(2) A notice under subsection (1) shall inform the patient and the area director that the patient or any person on his behalf is entitled to a hearing by the regional review board if the patient or the person gives or transmits to the officer in charge or to the regional review board notice in writing requiring a hearing and the patient or the person may so require such a hearing. 1978, c. 50, s. 11, *part*.

ss. 32, 33,  
re-enacted

**67.** On a day to be named by proclamation of the Lieutenant Governor, sections 32 and 33 are repealed and the following substituted therefor:

Effective-  
ness of  
certificate

32. Notwithstanding that a hearing is required or an appeal is taken against a certificate of involuntary admission or a certificate of renewal, the certificate is effective until confirmed or rescinded on a hearing or appeal. 1978, c. 50, s. 11, *part*.

Parties

33. The attending physician, the patient or other person who has required the hearing and such other persons as the regional review board may specify are parties to the proceedings before the board. 1978, c. 50, s. 11, *part*.

Transmittal  
of notice  
by officer  
in charge

33a. Where a patient or other person gives or transmits to the officer in charge a notice in writing pursuant to subsection 30a (2), the officer in charge shall transmit the requirement to the regional review board. 1978, c. 50, s. 11, *part*.

Appoint-  
ment of  
time and  
place for  
hearing

33b. A regional review board that received notice in writing requiring a hearing under subsection 30a (2) or under section 33a shall appoint a time and place for and hold the hearing. 1978, c. 50, s. 11, *part*.

Powers  
of board

33c. Within seven days from the day that a regional review board completes a hearing under section 33b, the board by an order in writing shall confirm or revoke the certificate of involuntary admission or the certificate of renewal and for the purpose the board may substitute its opinion for that of the attending physician. 1978, c. 50, s. 11, *part*.

Examination  
of  
documentary  
evidence

33d.—(1) A party to a proceeding shall be afforded an opportunity to examine and to copy, before the hearing, any written or documentary evidence that will be produced

or any report, the contents of which will be produced or any report, the contents of which will be given in evidence at the hearing.

(2) Subject to section 29, a party to a proceeding or the counsel or agent representing the party, or both, is entitled to examine and to copy any clinical record prepared in respect of the patient. 1978, c. 50, s. 11, *part*.

Party may  
examine  
clinical  
record

33e.—(1) Members of a regional review board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except under notice to and opportunity for all parties to participate, but the regional review board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Members  
holding  
hearing not  
to have  
taken part  
in investiga-  
tion, etc.

(2) No member of a regional review board shall participate in a decision of a regional review board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of a regional review board shall be given unless all members so present participate in the decision.

Only  
members  
at hearing  
to partici-  
pate in  
decision

(3) The findings of fact of a regional review board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

Findings  
of fact

R.S.O. 1980,  
c. 434

(4) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the regional review board within a reasonable time after the matter in issue has been finally determined. 1978, c. 50, s. 11, *part*.

Release of  
documentary  
evidence

33f.—(1) A party to proceedings before a regional review board may appeal from its decision in accordance with the rules of court to the county or district court of the county or district in which is located the psychiatric facility where the patient is detained.

Appeal to  
court

(2) Where a party appeals from a decision or order of a regional review board, the regional review board shall forthwith file in the county or district court the record of the

Record to  
be filed  
in court

proceedings before it in which the decision was made, which shall constitute the record in the appeal.

Appeal on  
law or  
facts

(3) An appeal under this section may be made on questions of law or fact or both.

Power of  
court

(4) On an appeal under this section, the court may exercise all the powers of the regional review board.

Idem

(5) For the purpose of subsection (4), the court may substitute its opinion for that of the attending physician or of the regional review board.

Idem

(6) On an appeal under this section, the court may refer the matter back to the regional review board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1978, c. 50, s. 11, *part*.